HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 7644 OF 2006

DATED: 18.4.2006

Between:

Chebrolu Venkata Sivarama Prasad

… Petitioner

and

The Regional Joint Commissioner,

Department of Endowments,

Tirupati, Chittoor District and others

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.7644 OF 2006

ORAL ORDER:

The Commissioner of Endowments, the State of Andhra Pradesh, shall be impleaded as the 9th respondent in this writ petition.

The petitioner is aggrieved by the appointment of respondents 4 to 8 as Trustees of Sri Anjaneya Swamy Temple, Perecherla village, Medikonduru Mandal, Guntur District.

By the order of the 2nd respondent dated 6.4.2006, the petitioner and certain other residents of the village had represented on 27.3.2006 not to consider the party respondents herein as Trustees for the temple, on the ground that they have negative antecedents and hindered the development of the temple in question. Nevertheless the petitioner alleges, on extraneous considerations and in transgression of the statutory obligations enjoined upon the second respondent by Section 18 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'), the 2nd respondent has appointed respondents 4 to 8 as Trustees of the temple, by the proceedings dated 6.4.2006.

Aggrieved thereby, the petitioner claims to have preferred a revision petition to the Regional Joint Commissioner, Endowments, Tirupati. A copy of the revision petition claimed to have filed by the petitioner is enclosed to the writ petition as material papers, but it bears no date. Be that as it may.

The petitioner's grievance is that there is no functional Regional Joint Commissioner of Endowments, Tirupati as at present and therefore the petitioner's revision petition is not being processed. Section 92 of the Act consecrates power to

the Commissioner of Endowments to either *suo motu* or on application, to call for and examine the record of any Deputy Commissioner or Assistant Commissioner, or of any other Officer subordinate to him or of any Executive Officer or any Trustee of a charitable or religious institution or endowment, to satisfy himself as to the correctness, legality or propriety of such a decision or order taken or passed. The Commissioner is also empowered, if satisfied that the decision is unsustainable, to modify, annul or reverse or to reconsider any such decision of an authority subordinate.

If the petitioner has already lodged a revision petition to the Regional Joint Commissioner of Endowments, Tirupati as claimed and if the Regional Joint Commissioner of Endowments, Tirupati is not in office for any reason, the Commissioner of Endowments shall himself take up the revision and exercise the powers, under Section 92 of the Act.

Section 18 of the Act specifies the qualifications for Trusteeship. Inter alia apart from good conduct and reputation in the locality, an applicant for Trusteeship should have contributed for the construction, renovation or development of any institution or towards the performance of any 'Utsavam' or 'Ubhayam' or any charitable cause. These activities should be in respect of the religious institution concerned. In considering the revision of the petitioner, the Commissioner of Endowments should therefore, and in particular, examine whether the order of the 2nd respondent dated 6.4.2006 or any file appurtenant to the order, records the satisfaction of the 2nd respondent with regard to the qualifications of the persons appointed (respondents 4 to 8 herein) in the context of the qualifications prescribed and ordained by Section 18 of the Act.

If neither the proceedings of the 2nd respondent dated 6.4.2006 nor the file relevant to the said proceeding discloses any such application of mind, the order of

the 2nd respondent is obviously unsustainable. The Commissioner of Endowments shall bear in mind that the power conferred on the 2nd respondent to appoint Trustees is a public and a statutory power. The 2nd respondent is a donee of a public power and is obligated to exercise the power for the legitimate legislative purposes for which the power is conferred. A power conferred on the 2nd respondent to appoint trustees to a religious institution is not intended to be exercised to hand out patronage or as spoils of office. The interests of the endowment or religious institution is paramount and no other interest or consideration shall be permitted to dilute that statutory purpose. This is the purport of Section 18 of the Act.

Political patronage, as alleged, is a wholly irrelevant and alien consideration and any executive exercise of power of appointing Trustees for purposes alien to the statutory purposes would be an illegal exercise of power.

The Commissioner of Endowments is statutorily obligated to exercise his quasi-judicial revisional powers under Section 92 of the Act to invalidate any illegal exercise of powers by any authority subordinate to him. The power conferred on the Commissioner of Endowments under Section 92 of the Act is also a Trust, a trust as a donee of a statutory and a public power. This court hopes and trusts that the Commissioner of Endowments shall be responsive and sensitive to the nature of the statutory obligations conferred upon him, under Section 92 of the Act.

With the observations above, the writ petition is disposed of directing the 9th respondent-the Commissioner of Endowments to take up any pending revision petition filed by the petitioner to the Regional Joint Commissioner of Endowments Tirupati (in case the Regional Joint Commissioner of Endowments is not functioning as on today i.e. 18.4.2006), and shall dispose of the revision expeditiously and in any event, within a period of two weeks from the date of receipt of a copy of this order.

The writ petition is disposed of as above at the stage of admission, after hearing the learned Government Pleader for Endowments. There shall however be no order as to costs.

GODA RAGHURAM, J

Date: 18.4.2006

CVM